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SUBJECT: Turkish Patent Institute on Pharmaceuticals
IPR Issues

Ref: (A) Ankara 839 (B) State 19340

(C) Finston/Sirotic Email 3/04/05

1. (SBU) Summary: The President of the Turkish Patent Institute supports the idea of patent linkage and will work on a system to ensure that the Health Ministry was informed of valid patents for pharmaceuticals. He defended Turkey's new data exclusivity regulation and stated that there is no prospect of providing pipeline protection. End Summary.

2. (SBU) In a March 8 meeting, Econoff raised a range of intellectual property concerns, including patent linkage, the January 2005 data exclusivity regulation, and pipeline protection, with Yusuf Balci, President of the Turkish Patent Institute (TPI). Econoff related that the Health Ministry had told us a system was in place to ensure that the Ministry was informed of valid patents prior to approving applications for marketing generic drugs (ref A). Balci responded that TPI recently sent the Ministry a list of valid pharmaceuticals patents, but acknowledged that there is no established mechanism for updating this list. During the meeting, Balci consulted with TPI staff on various ways of doing this. He said he would follow up to implement such a mechanism.

3. (SBU) Econoff delivered ref (B) points on deficiencies in Turkey's new data exclusivity regulation. Balci, who appeared to be unfamiliar with some of the details of the regulation, said that the new policy represented a compromise between the demands of research-based and generic producers. However, he said that future changes in the policy should not be ruled out.

4. (SBU) Econoff also informed Balci that the USG was assessing U.S. industry submissions on intellectual property protection in the context of the Special 301 review. Econoff highlighted PhRMA's assertion that members' intellectual property-related losses amount to nearly USD 900 million annually, mostly due to lack of pipeline protection (ref C). Econoff stated that the USG supported TRIPS-plus IPR protection, including pipeline, and asked Balci for his views on this. Balci replied that Turkey would not implement pipeline protection because of legal prohibitions on retroactive application and because it was not required by the TRIPS Agreement.

5. (SBU) Noting that the U.S. and Turkey took opposing sides on other IPR issues, including traditional knowledge and geographical indications, Balci urged the USG to factor in other views, particularly from the developing world, on these matters. Econoff responded that the USG IPR policy has been responsive to developing country concerns, highlighting particularly U.S. leadership on the issue of TRIPS and public health emergencies. Edelman